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## **OLR Bill Analysis**

### **SB 196**

#### ***AN ACT CONCERNING GROUP-WIDE SUPERVISION FOR INTERNATIONALLY ACTIVE INSURANCE GROUPS.***

##### **SUMMARY:**

This bill specifies when the Connecticut insurance commissioner or his counterpart in another jurisdiction may act as a group-wide supervisor for an internationally active insurance group. It specifies the commissioner's powers and responsibilities in this role. The bill applies to groups that include a company that is authorized to do business in Connecticut and that, by law must register with the Insurance Department under the bill, the registered company must pay for the reasonable expenses in administering these provisions. These include retaining attorneys, actuaries, and other professionals and reasonable travel expenses.

The bill makes confidential and protects all information, documents, and material and copies of them that the commissioner or anyone else obtains or is disclosed in the course of an examination or investigation under the bill.

The bill allows the commissioner to adopt implementing regulations.

EFFECTIVE DATE: October 1, 2014

##### **DEFINITIONS**

Under the bill, a "group-wide supervisor" is the chief insurance regulatory official authorized by his or her jurisdiction to conduct and coordinate group-wide supervisory activities and whose jurisdiction has been determined or acknowledged by Connecticut's insurance commissioner, under the bill's provisions, to have sufficient significant contacts with an internationally active insurance group. An "internationally active insurance group" is an insurance holding

company system that includes an insurance company doing business in Connecticut.

Under current law and the bill, “enterprise risk” is any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, would likely have a material adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system. Examples of such risk include any activity, circumstance, event, or series of events that would cause (1) an insurer's risk-based capital to fall below minimum levels required by law or (2) the insurer to be in a hazardous financial condition.

#### **DETERMINING WHETHER THE CONNECTICUT COMMISSIONER TAKES THE LEAD**

Under the bill, Connecticut’s insurance commissioner may determine, in cooperation with other group-wide supervisors, that he is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance business operations in this state or has subsidiaries that do so.

Alternatively, the Connecticut commissioner may acknowledge that the chief insurance regulatory official of another jurisdiction is an appropriate supervisor for a group that (1) does not conduct substantial insurance business operations in the United States, (2) conducts substantial insurance business operations in the United States but not in Connecticut, or (3) conducts substantial insurance business operations in the United States and in Connecticut if the commissioner determines that the official of another jurisdiction is the appropriate group-wide supervisor.

In making the latter decision, the commissioner must consider the following factors and the relative weight of each:

1. the location of the group’s home office or where the ultimate controlling person of the group is domiciled;
2. the locations of the group’s executive offices;

3. where the group's insurance business originates;
4. the locations of the group's assets and liabilities and business operations and activities; and
5. whether (a) the chief insurance regulatory official of another jurisdiction is acting or seeking to act as the group-wide supervisor under a regulatory system the Connecticut commissioner determines is substantially equivalent to that provided under Connecticut law or is otherwise sufficient in terms of group-wide supervision, enterprise risk analysis, and cooperation with other chief insurance regulatory officials and (b) that official provides the Insurance Department with reasonably reciprocal recognition and cooperation.

Before issuing a determination or acknowledgment, the commissioner must notify the registered insurance company and the person who ultimately controls it of the pending determination or acknowledgment. The commissioner must provide the group at least 30 calendar days to submit either any additional information pertinent to the determination or an acknowledgment that the commissioner requests or the group chooses to submit. The department must notify the company and controlling person of its determination or acknowledgment and post, on its web site, a current list of groups the commissioner has determined are subject to his group-wide supervision.

#### **COMMISSIONER'S POWERS AND RESPONSIBILITIES**

The commissioner may collect, from any insurance company registered as part of an international group, any information necessary for the department to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group or to acknowledge that the chief insurance regulatory official of another jurisdiction should act as the group-wide supervisor of the group.

The commissioner can order such companies to produce records,

books or other information they or their affiliates hold that is reasonably necessary to determine compliance with the bill.

The commissioner may conduct and coordinate the following activities for a group he supervises:

1. assess, under existing law, the enterprise risks within the group to ensure that management identifies the material financial condition of, and liquidity risks to, the members of the group that are in the insurance business and ensures that reasonable and effective mitigation measures are in place;
2. request information from any member of the group necessary and appropriate to assess enterprise risk, such as information about governance, risk assessment and management, capital adequacy, and material intercompany transactions;
3. compel development and implementation of reasonable measures designed to ensure the group can timely recognize and mitigate material risks to its members engaged in the business of insurance;
4. through a supervisory college (a group of insurance regulatory officials), communicate with insurance regulatory officials of the group's members and share relevant information with them, subject to the confidentiality provisions described below;
5. enter into agreements with, or obtain documentation from, any Connecticut-registered company, any other group member, and any chief insurance regulatory official of another jurisdiction, to establish or clarify the commissioner's role as group-wide supervisor, which may include provisions for resolving disputes with other relevant supervisory authorities. Such an agreement or document may not serve as evidence that an insurance company or person within an insurance company holding system that is not incorporated in Connecticut is doing business here or is otherwise subject to the Connecticut's jurisdiction; and

6. other activities the commissioner deems appropriate to implement the purposes of the bill and existing insurance law.

If the commissioner acknowledges that a regulatory official of a jurisdiction not accredited by National Association of Insurance Commissioners is the group-wide supervisor of a group, the commissioner must reasonably cooperate through a supervisory college or otherwise with group supervision that supervisor undertakes. This cooperation must comply with Connecticut law and the group-wide supervisor must recognize and cooperate with the commissioner's activities as a group-wide supervisor for other groups, where applicable. The commissioner may refuse to cooperate if he determines this recognition and cooperation are not reasonably reciprocated. He may enter into agreements with or obtain documentation from any Connecticut-registered company, any of its affiliates, and any regulatory official of another jurisdiction who is the group-wide supervisor of a group, to establish or clarify that official's role as group-wide supervisor.

#### **CONFIDENTIALITY**

Under the bill, the following are (1) confidential and privileged, (2) not subject to disclosure under the Freedom of Information Act, (3) not subject to subpoena, and (4) not subject to discovery or admissible in evidence in any civil action:

1. information, documents, and materials or copies of them that the commissioner or any other person obtains or is disclosed to them in the course of conducting an examination or investigation under the bill and
2. all information reported, furnished, or filed under the bill.

The commissioner may use the information to further any regulatory or legal action he brings as part of his official duties. But he can only make such information public, without the affected insurance company's prior written consent, if he:

1. gives the company and its affiliates who would be affected

notice and opportunity to be heard and

2. determines that the interests of policyholders, securityholders, or the public will be served by publication.

In such cases, the commissioner may publish all or any part of the information in a way he considers appropriate.

### **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea    18    Nay   1    (03/20/2014)